

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 8

ST. CHARLES MERCY HOSPITAL

Employer

and

Case No. 8-RC-16266

SERVICE EMPLOYEES INTERNATIONAL
UNION, (SEIU), LOCAL 47, AFL-CIO¹

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

¹ The Petitioner's name appears as amended at hearing.

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time, regular part-time and contingent² service and maintenance and hospital clerical employees employed at the Employer's St. Charles Mercy Hospital, Oregon, Ohio, Child Development Center, Oregon, Ohio, Navarre Medical Plaza, Oregon, Ohio, Center for Health Promotion, Oregon, Ohio, Elmore Health Care Center, Elmore, Ohio, Resident Family Practice Center, Oregon, Ohio, Woodville Road Health Center, Toledo, Ohio, Navarre Park Health Care Center, Toledo, Ohio, and Talbot Center, Oregon, Ohio, including all: aides, center for pain management clerks, central supply technicians 1 and 2, clerk/receptionist/typist 2s, customer credit representatives, diet clerks, driver/couriers, food service coordinators, food service stores clerks, food service workers 1, 2 and 3, full service workers, health unit coordinators 1 and 2, histology assistants, patient host/hostesses, information desk receptionists, phlebotomists, lead central supply technicians, linen assistants, mail clerks, medical records specialists, nursing staff clerks, orderlies, patient care technicians, patient placement coordinators/team leaders, patient registration coordinators, patient services coordinators, patient service representatives, patient transporters, PBX operators, purchasing leaders, radiology aides, radiology records clerks, radiology records specialists, receptionists, registration specialists, scheduling specialists, secretaries 1, 2 and 3, sous chefs, support services technicians, surgical assistants, triage assistants, women's care secretaries, support service/shift coordinators, health promotion network team coordinators, billing assistant 2s, certified pharmacy technicians, CME program coordinators, coding specialist 1s, department administrative coordinators, department

² The parties stipulated to a standard for determining eligible contingent employees of 96 hours during the 12-week period prior to the eligibility date. I accept the parties stipulation as it provides an equitable formula for determining the eligibility of such part-time employees. See *Beverly Manor Nursing Home*, 310 NLRB 538 (1993); *Northern California Visiting Nurses Assn.*, 299 NLRB 980 (1990).

transcriptionists, medical transcriptionists, clerk/transcriptionists, rehabilitative aide 2s, rehabilitation intake/insurance specialists, rehabilitation intake/insurance training specialists, rehabilitation team coordinators, teacher assistants, discharge analysts, and correspondence specialists 1 and 2, but excluding all professional employees, technical employees, skilled maintenance employees, billing assistant 3s, cancer data specialists, diet technicians, dietary team leaders, health information services coordinator, medical assistant 1s, lead medical transcriptionists, medical students and all guards and supervisors as defined in the Act.

St. Charles Mercy Hospital (St. Charles or the Employer) operates an acute care hospital located at 2600 Navarre Avenue in Oregon, Ohio and several additional facilities in the Oregon/Toledo, Ohio area. The Petitioner seeks to represent a unit of the Employer's nonprofessional hospital employees. The unit found appropriate is composed of approximately 660 employees.

At hearing, the parties stipulated to the following unit inclusions and exclusions.³

All full-time, regular part-time and contingent service and maintenance and hospital clerical employees at the Employer's facility at 2600 Navarre Avenue, Oregon, Ohio, including all: aides, center for pain management clerks, central supply technicians 1 and 2, clerk/receptionist/typist 2s, customer credit representatives, diet clerks, driver/couriers, food service coordinators, food service stores clerks, food service workers 1, 2, and 3, full service workers, health unit coordinators 1 and 2, histology assistants, patient host/hostesses, information desk receptionists, phlebotomists, lead central supply technicians, linen assistants, mail clerks, medical records specialists, nursing staff clerks, orderlies, patient care technicians, patient placement coordinators/team leaders, patient registration coordinators, patient services coordinators, patient service representatives, patient transporters, PBX operators, purchasing leaders, radiology aides, radiology records clerks, radiology records specialists, receptionists, registration specialists, scheduling specialists, secretaries 1, 2, and 3, sous chefs, support services technicians, surgical assistants, triage assistants, women's care secretaries,

³ At the hearing the Parties agreed that dietary team leaders, health information services coordinators, medical assistant 1s, and lead medical transcriptionists, should not be included in the unit. With no record of evidence to the contrary, I accept the parties agreement to exclude these positions from the unit.

support service/shift coordinators, and health promotion network team coordinators, but excluding all professional employees, technical employees, skilled maintenance employees, billing assistant 3s, cancer data specialists, diet technicians, dietary team leaders, health information services coordinators, medical assistant 1s, lead medical transcriptionists, medical students, and all guards and supervisors as defined in the Act.

A unit of nonprofessional employees at an acute care facility is an appropriate unit pursuant to the Board's Health Care Rule adopted in 1989. **29 CFR 103.30, 284 NLRB 1596 (1989).** *American Hospital Assn. v. NLRB*, 499 U.S. 606 (1991) (upholding validity of Final Rule).

The parties are in dispute, however, regarding the placement of certain classifications in the unit. There are approximately 120 employees in the disputed classifications, while there are approximately 440 employees in the unit classifications agreed to be included by the parties.

The Employer contends that the following classifications of employees should also be included in the nonprofessional unit: coding specialist I, department administrative coordinator, department transcriptionist, medical transcriptionist, clerk transcriptionist, discharge analyst, and correspondence specialist 1 and 2, Billing assistant II, certified pharmacy technician, CME program coordinator, rehabilitative aide II, rehabilitative intake\insurance specialist, rehabilitation intake/insurance training specialist, team coordinator rehabilitation, nurse extern, and teacher assistant.

The Employer further contends that employees working at any of its other facilities in an agreed upon classification should also be included in the unit. This includes the positions of patient services coordinator, health promotion network team

coordinator, receptionist, department administrative coordinator, secretary and women's care secretary.

The Petitioner contends that all of the foregoing classifications must be excluded on the basis that they belong in a technical or business office clerical unit, or they do not share a community of interest with the classifications in the petitioned for unit.

For the reasons set forth below, I find that all of the disputed classifications, except for nurse interns, should be included in the unit.

BACKGROUND

The Employer owns and operates St. Charles Mercy Hospital (the Hospital), an acute care facility licensed to operate 360 beds. The hospital consists of three buildings that are attached to one another. The North building is the original hospital building, and contains patient units, a transitional care unit, orthopedics, psychiatrics and offices. To the north of the North building is a building the Employer calls the prototype building, or "proto" building for short. It was specially designed for the obstetrics department and contains the labor, delivery and recovery rooms. The South building contains medical surgical units, intensive care unit, C.C.U., surgery, respiratory therapy, admitting, and an inpatient rehabilitation area.

In addition to the acute care hospital, the Employer owns and operates several additional facilities including four resident family practice centers, two outpatient rehabilitation clinics, an outpatient substance abuse counseling center, a day care center, and a medical office plaza. Three of these facilities are located near the hospital on what the Employer refers to as the campus of St. Charles. The Child Development Center

(CDC) is a small building that is separate from the hospital that nevertheless shares the hospital's address of 2600 Navarre Avenue. The CDC provides day care to children of employees while the employees are working. About eight to ten years ago, prior to the CDC taking over its current building, these services were provided by the Employer in a building that was located just to the east of the south building that is no longer in existence. To the east of the hospital is a new building called the Navarre Medical Plaza. Located in the first floor of this building is the Employer's Women's Care Center. The building has its own address separate from the hospital. The Center for Health Promotion, also referred to as the rehabilitation building, is located approximately two hundred yards away from the hospital and has its own separate address. Patients come here to exercise and to receive occupational therapy after having surgery. Prior to the building of this center, these services were provided in the hospital. Approximately 10 years ago, the outpatient rehabilitation department and all of its employees were relocated to its current location. The area containing these buildings, the hospital and their shared parking lots constitute the campus of St. Charles. The Employer maintains security patrol for all of these buildings and parking lots. A security officer drives a vehicle around the entire campus and patrols the entire area during each shift.

The Employer's four resident family practice centers provide physical health services including physical examinations, lab work, x-rays, and other such services. The Elmore Health Care Center (Elmore) is located in Elmore, Ohio, southeast of the St. Charles Mercy campus by about 30 miles. The Resident Family Practice Center

(Ansonia) is located a half block west of the St. Charles campus on Ansonia Street.⁴ The Woodville Road Health Center (Woodville) is located in east Toledo, about four miles from St. Charles Hospital. The Navarre Park Health Care Center (Navarre) is located in east Toledo about two miles away from St. Charles Hospital. The Talbot Center (Talbot) is an outpatient substance abuse counseling center located about two miles from St. Charles Hospital. Point Place Rehabilitation Clinic (Point Place) is a small outpatient rehabilitation facility providing services similar to the Center for Rehabilitation. It is located in Toledo approximately seven to eight miles away from the main hospital.

St. Charles is a subsidiary of Mercy Health Partners (Mercy). Mercy's offices are located in Toledo, Ohio, and are referred to by the Employer as the Mercy Health campus or the Regional office. Mercy is a corporate parent that performs certain business office functions for St. Charles as well as its other subsidiary hospitals, including St. Vincent and Riverside.⁵ These business office functions include human resource services, payroll, finance, maintaining patient accounts, billing and collections.⁶ St. Charles is separately incorporated from Mercy, and maintains its own chief executive officer, board of directors and employees.

Cathleen Nelson is the Employer's chief executive officer. Four company vice presidents report directly to Nelson. Vice president of operation William Sutton oversees the CDC⁷, communications/safety⁸, occupational health⁹, radiology¹⁰, rehabilitation¹¹,

⁴ Ambulatory services manager Jane Beckstead testified that the family practice office that has been located in the Ansonia facility for the past two years will be relocated into the Navarre Medical Plaza in mid to late October of this year.

⁵ No party has raised any issue regarding whether Mercy Health Partners is also an employer of the employees in the petitioned for unit.

⁶ None of the employees in the petitioned-for unit or in the classifications at issue are responsible for billing and collections for the Employer.

⁷ The teaching assistant position at issue is located in this department.

security, ambulance services¹² and volunteer/guild/gift shop. Scott Williams, also a vice president of operations, oversees ambulatory clinics¹³, environmental services¹⁴, food and nutrition¹⁵, laboratory¹⁶, pharmacy¹⁷, plant operations and the sleep lab¹⁸. Vice president of patient care Carol Whittaker oversees behavioral health services¹⁹, emergency²⁰, employee health, infection control, nursing/“periop” services/pain management²¹, nursing education, women’s center²² and central supply²³. Vice president of mission services Sister Dorothy Thum oversees gerontology²⁴ and pastoral care. Admitting department²⁵

⁸ The PBX operator position that the parties agree should be included in the unit is located in this department.

⁹ The secretary I position that the parties agree should be included in the unit is located in this department.

¹⁰ The positions of radiology aide, radiology records clerk, radiology records specialist that the parties agree should be included in the unit, and the disputed department transcriptionist position, are located in this department

¹¹ The position of health promotion network team coordinator that the parties agree should be included in the unit, and the disputed positions of rehabilitative aide 2, rehabilitative intake/insurance specialist, and rehabilitative training specialist, are located in this department.

¹² The position of driver/courier that the parties agree should be included in the unit is located in this department.

¹³ The positions of billing assistant 2 and the disputed patient service coordinator are located in this department.

¹⁴ The positions of full service worker, patient services representative, and support services technician that the parties agree should be included in the unit are located in this department.

¹⁵ The positions of food service coordinator, diet clerk, food service stores clerk, food service workers 1, 2 and 3, purchasing leader, sous chef, and secretary II that the parties agree should be included in the unit are located in this department.

¹⁶ The position of phlebotomist that the parties agree should be included in the unit, and the disputed position of department transcriptionist, are located in this department.

¹⁷ The position of secretary 1 and 2 that the parties agree should be included in the unit, and the disputed position of certified pharmacy technician, are located in this department.

¹⁸ The position of department transcriptionist at issue is located in this department.

¹⁹ The position of patient care technician that the parties agree should be included in the unit is located in this department.

²⁰ The positions of triage assistant, registration specialist and aide that the parties agree should be included in the unit, and the position of department transcriptionist at issue, are located in this department.

²¹ The positions of center for pain management clerk, health unit coordinator 1 and 2, patient host/hostess, nursing staff clerk, orderly, patient care technician, patient transporter, surgical assistant, secretaries 1, 2 and 3 that the parties agree should be included in the unit, and the position of nurse extern at issue, are located in this department.

²² This is the Employer’s only department located in the Navarre Medical Plaza, which has a separate address from the hospital. The one women’s care secretary position that the parties agree should be included in the unit, and a department administrative coordinator position is located in this department.

²³ The positions of central supply technician 1 and 2 and linen assistant that the parties agree should be included in the unit are located in this department.

²⁴ The positions of secretary 1 and 2 that the parties agree should be included in the unit are located in this department.

head is Marcia Karamol, who reports to chief financial officer Samantha Platzke, who in turn reports directly to CEO Nelson. Also directly under Nelson are the continuing medical education²⁶ and health information service²⁷ departments.

The Employer maintains one human resources department for all of its facilities, which is located in the hospital building. All employee personnel files are maintained in this department, although duplicate files are also located at the regional office. All St. Charles employees receive the same mandatory orientation. For the past year, orientation has been conducted at the Mercy campus together with the new employees of St. Vincent and Riverside every two weeks and lasts all day. The Employer explains that it holds its orientation for St. Vincent, Riverside and St. Charles together so that the new employees can get to know each other and because the people who are presenting the orientation “do the same program at each facility.” Prior to the orientations being held at the Mercy campus they were held at the St. Charles campus. All employees are governed by a manual that the Employer provides to all new employees. This manual contains information regarding most of the Employer’s policies covering matters such as holidays, leaves of absence, jury duty, codes of conduct, and attendance. The Employer also maintains a more comprehensive policy and procedure manual that incorporates all of its employment policies as well as its administrative, legal and departmental policies. Each of the Employer’s facilities possesses a copy of this manual.

²⁵ The positions of patient placement coordinator/team leader, patient registration coordinator, receptionist, registration specialist, scheduling specialist, customer credit representative, and information desk receptionist that the parties agree should be included in the unit are located in this department.

²⁶ The position of CME program coordinator at issue is located in this department.

²⁷ The position of medical records specialists that the parties agree should be included in the unit, and the positions of correspondence specialist 1 and 2, medical transcriptionist, clerk transcriptionist, and coding specialist I at issue, are located in this department.

All employees wear the same identification badge. All employees use a time and attendance keeping system called TACS. TACS is a telephone system for recording an employee's time on and off the payroll clock.

All employees are covered by one pay grade system that includes 48 pay grades. The Mercy regional compensation director is responsible for determining those pay grades and the pay grades for each employee classification.

The Employer maintains a uniform posting and bidding policy for all of its vacancies in all of its facilities. When a vacancy arises, the director of the department with the vacancy prepares a requisition form to be approved by that department's vice president. Upon approval, the requisition is sent to the human resources department for posting. First, the position is posted in the department in which the vacancy exists for seven days. Interested employees submit their bids directly to their supervisor, who reviews the bids, interviews if necessary, and selects the "most qualified senior person" for the position. Heintschel explained that the employee who has the highest seniority with the best qualifications would be the person who was likely to get the position. If the vacancy is not filled at that phase, then the vacancy is posted company wide at a centralized posting board at each facility for an additional seven days. At the hospital, this posting board is outside the Employer's cafeteria. The human resources department is responsible for faxing the postings to each facility to be posted there. To apply for a vacancy an interested employee completes a "requisition for transfer" form, indicating their current position and their qualifications, which they submit to the human resources department. Only if no qualified employee bids on a vacant position does the Employer seek applications from non-employees.

Seniority refers to an employee's hire date by the Employer. If an employee changes departments or positions, they carry the same seniority date at the Employer. Seniority is also considered for determining vacation priority, temporary and permanent lay offs, and company service awards.

THE COMMUNITY OF INTEREST ISSUE

The Petitioner claims that the following classifications should be excluded from the unit because they do not share a community of interest with unit positions: rehabilitation intake/insurance specialist, rehabilitation training specialist, rehabilitation team coordinator, and teacher assistant. Also at issue is the scope of the unit. The Petitioner seeks a unit of nonprofessional employees working solely within the confines of the hospital. The Employer notes, however, that several of its classifications of employees are located at its other facilities, and contends that these employees must also be included in the unit. The classifications at issue on this basis are: patient services coordinator (five employees work in this position at the Navarre Park Health Care Center, two at the Woodville facility, one at the Ansonia facility, and none at the hospital) health promotion network team coordinator (two employees work in this position at the rehabilitation center and none work at the hospital), receptionist (one employee works in this position at the Navarre Park Health Care Center and none work at the hospital), department administrative coordinator (one employee works in this position at the Women's Care Center located in the Navarre Medical Plaza and one works at the Talbot facility), secretary 3 (one employee works in this position at the Talbot Center and

several others work at the hospital) and women's care center secretary (one employee works in this position at the Women's Care Center and none work at the hospital).

Rehabilitation intake/insurance specialists and rehabilitation intake/insurance training specialist.

Candy Fullenlove-Garza is a physical medicine and rehabilitation manager. She testified that she oversees the employees who perform outpatient physical medicine and rehabilitation, while Becky Ford oversees the employees who perform physical medicine and rehabilitation at the hospital. Fullenlove-Garza testified that there are two rehabilitation intake/insurance specialists who are paid at grade level 10 and one rehabilitation intake/insurance training specialist who is paid at level 13. Both classifications work at the rehabilitation center. The rehabilitation intake/insurance specialists answers phones, enters patient demographic and insurance information into the computer system, verifies insurance benefits, and schedule patients for their first appointment. The rehabilitation intake/insurance training specialist performs the same duties as the rehabilitation intake/insurance specialists as well as trains new rehabilitation intake/insurance specialists. Both positions enter information into a single computer system that runs in the Employer's hospital, rehabilitation center, as well as its other facilities.

The job description states that both positions require a medical terminology course. In addition, at least two years of experience working in the medical insurance field is required for both positions. However, Fullenlove-Garza testified the foregoing are only "preferred" qualifications and not mandatory. The position requires a high

school degree or GED equivalent and does not require any certification or licensure. Fullenlove-Garza also testified that the position of registration specialist that the parties agree should be included in the unit is identical to that of rehabilitation intake/insurance specialist except for location; the registration specialist performs her duties in the hospital's in-patient rehabilitation department.

Fullenlove-Garza testified that rehabilitation intake/insurance specialists and rehabilitation training specialists have regular contact with hospital employees. She explained that when a patient is discharged, the rehabilitation specialists contact the hospital discharge planner and social worker to get the patient set up for their first visit to the rehabilitation center. Additionally, all rehabilitation employees, whether they work in the hospital, rehabilitation center, or at the Employer's other facilities, attend department meetings that are held at the hospital on a monthly basis. Fullenlove-Garza also testified that rehabilitation department employees who work in the hospital fill in for those who work at the outpatient facilities and vice versa as needed in the event of vacation and sick leave. She did not state how often that occurs or for how long. Moreover, she testified that she and in-patient supervisor Ford will supervise each other's employees as needed when they are scheduled to be off from work. She further testified that rehabilitation aide 2 position that currently only works in the hospital was able to work in the outpatient setting until December of last year when Medicare changes prohibited it.

Rehabilitation team coordinator

Fullenlove-Garza testified that there are five rehabilitation team coordinators. One is located at Elmore and the other four are located at rehabilitation center. They

perform on-going scheduling of physical, occupational and speech therapy for patients, send faxes, and deal with insurance companies for approval of additional therapy appointments. This position is paid at grade level 10. No particular education level nor certification or licensure is required for this position.

Teacher assistants

CDC director Roberta Kehlmeier testified that the CDC provides daily care for the children of the Employer's employees from the age of six weeks to five. As stated previously, prior to the department moving to its current location about 11 years ago, it was located in one of the hospital's buildings that has since been torn down. The 13 teacher assistants assist the day care teachers in all aspects of providing for the children's' daily care. They are paid at grade level 4.

Kehlmeier testified that the CDC is governed by the State of Ohio department of Job and Family Services and must follow its rules and regulations regarding student and staff ratios, nutrition, and daily care. The teachers' assistants learn those requirements and how to abide by them through on-the-job training, staff meetings and in-service training. The Ohio Department of Human Services requires 45 hours of in-service training within three years, including six hours of child and infant first aid, six hours of child abuse prevention and six hours of communicable disease training. Some of that training is provided by the hospital nurses. The job description also states that employees must "participate in early childhood or related workshops once a year minimum to remain current in the field." Kehlmeier explained that such workshops are offered by the "Y" and are held at the CDC, although such workshop can be taken in anywhere in any

area of child development. No particular education level nor certification or licensure is required for this position.

Kehlmeier does not recall any teaching assistants bidding into a different position at St. Charles but recalls one employee bid into her teaching assistant position from environmental services. Teaching assistants also have contact with other employees in the hospital cafeteria and when the employees arrive to drop off and retrieve their children from the center.

When children are too sick to be cared for at the CDC, employees may take their child to the hospital to be cared for through the Wee Tend program. Nadine Heck, the clinical manager for the transitional care unit and the nurse educator for medical surgical services, testified that patient care technicians, who the parties agree should be included in the unit, and nurse externs, care for children through the Wee Tend program. Heck testified that patient care technicians and nurse externs perform the same work as teacher assistants through this program including hygiene, diaper changing, and “maybe some interactive development, like videos or books depending on child age.”

In the first instance, I must consider the Petitioner’s position that only the nonprofessional employees working within the confines of the hospital proper constitute an appropriate unit. In the circumstances of this case, I have determined that it is appropriate to include the non-professional employees of the Employer working at its related facilities in the unit. In so concluding, I have applied the traditional community of interest factors relied on by the Board in determining the scope of the unit such as geographic proximity, local autonomy, employee interchange and interaction, functional

integration and the employees terms and conditions of employment. See *University of Pittsburgh Medical Center*, 313 NLRB 1341, 1342 (1994).

In this case, pay, benefits and procedures are uniform for the Employer's employees regardless of whether they work in the hospital or its other facilities. The Employer's parent corporation, Mercy, handles all payroll and human resources matters for all employees. The Regional Compensation Director determines the wages for all St. Charles employees. All employees attend the same mandatory orientation. The Employer maintains one seniority list and a uniform bidding policy for all of its employees. Employees located in the hospital as well as at the Employer's other facilities share common managers. See *supra* footnotes 8 through 28. Additionally, inpatient and outpatient rehabilitation employees share common supervision in the event that one supervisor is away on vacation or ill.

The Employer's facilities are in close proximity to each other. The Employer's CDC and Navarre Medical Plaza are connected to its hospital by walkways and shared parking lots. The Center for Health Promotion is located directly across the street from the hospital and receives patients referred to it for physical therapy after having received surgery at the hospital. The foregoing areas are referred to by the Employer as the campus or the St. Charles campus and are patrolled by the same security guards regularly. The Ansonia, Navarre, Talbot, and Woodville clinics are located a mere half block, two miles, two miles, and four miles away from the St. Charles campus, respectively. Patients are presumably referred to the clinics from the hospital and vice versa and thus receive a continuum of care at the Employer's various facilities. While the Elmore clinic is located about 30 miles from the campus, which is significantly farther away from the

campus than the other facilities, to fail to include the sole employee at this facility who holds the same classification of rehabilitation team coordinator that I herein find to be appropriately included in the unit, would cause unnecessary fragmentation of the unit contrary to the mandate of Congress. S. Rep. No. 93-766 at 5 (1994); H.R. Rep. No. 93-1051 at 6-7 (1974). See also *St. Francis Hospital*, 219 NLRB 963, 964-965 (1975).

For the foregoing reasons, I find the positions of rehabilitation intake/insurance specialist, rehabilitation training specialist, rehabilitation team coordinator, teacher assistant included in the unit. I shall also include in the unit nonprofessional employees employed at the Employer's other facilities, who are employed in classifications the parties have agreed are included in the hospital proper. These classifications include patient services coordinator, health promotion network team coordinator, receptionist, department administrative coordinator, secretary 3, and women's care secretary.

THE BUSINESS OFFICE CLERICAL ISSUE

The Petitioner contends that the following classifications belong in a business office clerical unit and should not, therefore, be included in the instant unit: discharge analyst, correspondence specialist 1 and 2, clerk transcriptionist, department transcriptionist, CME program coordinator, department administrative coordinator, and billing assistant 2. The Employer contends these positions should be included in the unit as they are hospital clericals.

Discharge analyst

Christine Dietz is the regional manager of medical records for Mercy. Dietz oversees the discharge analyst as well as correspondence specialist 1 and 2, clerk

transcriptionist, department transcriptionist, medical transcriptionist, coding specialist 1, and other positions that work in the medical records department at St. Charles. Dietz testified that the discharge analyst organizes each patient's medical records upon discharge. When a patient is discharged, that patient's medical records file is brought to the medical records department, and the file may be incomplete or out of order. The discharge analyst organizes the files and ensures that all physicians' reports are properly signed. The discharge analyst also handles phone call requests that files be pulled.

The job description for this position states that three to five years in a hospital health information services department with experience in release of information and general medical records functions and notary public commission is necessary. Dietz explained that to receive a notary public commission an individual need only pass a test containing approximately 20 questions. Dietz testified, however, that those qualifications were only preferred but not required. The job description also states that accredited records technician education (ART) is preferred but no particular education level is required. Dietz testified that all of the current discharge analysts are high school graduates without further education. The pay grade for this position is 8. Dietz testified that it would be a natural progression to advance to this position from medical records specialist, a classification included in the petitioned for unit, and that two current discharge analysts were promoted that position.

Correspondence specialist 1 and 2

Dietz testified that the correspondence specialist 1 has the primary responsibility of copying medical records from patient files. The pay grade for the position is 7. The

correspondence specialist 2 receives requests for medical records by attorneys, physicians or patients, verifies that the records can be released to the requesting party, and provides the correspondence specialist 1 with the list of records that need to be copied. The pay grade for the position is 10. Dietz testified that the correspondence specialist 1 will fill in for the correspondence specialist 2 in the event of illness or vacation, and receives training by the correspondence specialist 2 to do so. There is currently one employee in each of these positions.

The job descriptions for these positions state that three to five years in a hospital health information services department with experience in release of information and general medical records function is required and that an ART is preferred. Dietz testified, however, that the current correspondence specialist 1 did not possess any prior experience in health information services nor an ART, but rather bid on this job from her prior position as a lab technician. The job descriptions further state a preference for notary public commission. The current correspondence specialist 2 also does not have an ART, but bid on the position after about 10 years as a discharge analyst. No particular education level is required.

Department transcriptionist

Dietz explained that this positions is identical to the medical transcriptionist position, with the only difference being that medical transcriptionists are located in the medical records department and department transcriptionist are usually located in a particular department such as the emergency room. Dietz testified, however, that two department transcriptionists work in the medical records department. Both positions

transcribe physicians' orders recorded on a transcription machine. The job descriptions for both state that approximately one to two years of clinical experience working with transcription of dictation of various doctors and various types of reports. Dietz testified, however, that she tests applicants using actual dictations and as long as an applicant passes her test then nothing further is required. No particular education level, certification or licensure is required for the job. The record is silent regarding the pay grade for this position, but it is likely to be the same or similar to that of the medical transcriptionist who is paid at grade level 14.

Clerk/transcriptionist

There is one clerk/transcriptionist who assists the transcriptionists, answers the phone from individuals calling to request copies of medical records, copies and faxes records, and takes records to various departments and files them in the patients' charts. The individual who holds this position bid on it from her prior position of medical records specialist, a position the parties agree should be included in the unit. The position requires a high school education or GED equivalent and does not require any certification or licensure. The pay grade for this position is 7, same as for medical records specialist.

Continuing medical education (CME) program coordinator

There is currently one person working in this position. Her daily job duties are scheduling conferences for the medical staff and planning and coordinating CME conferences, which involves tasks such as making travel arrangements for speakers, reserving conference rooms, ordering food, and making brochures. The job description

states that strong computer skills and knowledge of medical terminology are required. Human resources manager Jeanne Heintschel testified that this position would be comparable to the classification of secretary 3, which the parties agree should be included in the unit. The Employer's job description for secretary 3 includes computers skills and knowledge of medical terminology. Heintschel testified that this position receives the "same benefits" as the secretary 3 position, but did not explain what she meant by this or whether it was paid at the same grade level. The position requires a high school education or GED equivalent and does not require any certification or licensure.

Department administrator coordinator

Heintschel testified that the department administrator coordinator position is also similar to the secretary 3 position. Heintschel explained that the specific job classification of department administrative coordinator came about because "Two departments had elected to title their – their secretary who right [sic] in the office for them department administrative coordinator. They preferred that title. But the function of secretary 3 and department administrative coordinator are – is high level secretarial work, usually working for a department head, or a director, and doing more advanced typing and computer analysis, and actually running the department, organizing and prioritizing, and making sure the work flow occurs, and coordinating people's calendars, and planning meetings." This position is paid at pay level 12, the same as for secretary 3.²⁸ The position requires a high school education or GED equivalent and does not require any certification or licensure.

Billing assistant 2

The sole employee in the billing assistant 2 position works at the Navarre facility.²⁹ Ambulatory services manager Jane Beckstead testified that the current billing assistant 2, Marlene Dickinson, first worked in the hospital's lab and later as a secretary prior to working at the Navarre clinic. Beckstead did not know the position's pay grade but stated that the pay rate was \$9.72 to \$12.76 an hour. Beckstead explained that the duties of this position are to post entries to the system, meaning to enter the service provided and the code corresponding thereto, and to post payments made by patients in the office to the system, such as co-payments and payments to an account for services rendered.

The job description states that this position requires demonstrated experience in all phases of physician billing including accounts receivable management, third party reimbursement, posting cash receipts, balances and deposits. Beckstead and human resources manager Heintschel explained, however, that all final patient accounts billing is performed by the regional office central patient accounts department. The billing assistant performs merely an "initial process" on the billing and accounts. The position requires a high school degree or GED equivalent and does not require any certification or licensure.

The Board has recognized a distinction between business office and other types of clericals. **Rhode Island Hospital**, 313 NLRB 343, 359 (1993), citing **The Health Care Rule**, 284 NLRB 1528 at 1565. In **Rhode Island**, the Board noted that business office

²⁸ Secretary 1 is paid at grade level 8 and secretary 2 is paid at grade level 10.

²⁹ As explained above, the Petitioner did not raise the issue that the billing assistant 2 position should be excluded from the unit on the basis that it does not share a community of interest with unit employees even though the classification is located at the Employer's Navarre facility.

clericals perform distinct functions including handling finances and billing, and dealing with Medicare, Medicaid and other reimbursement systems. Business office clericals are also generally supervised in separate business office clerical departments that are generally physically isolated from the rest of the hospital and that perform centralized business office functions. The Board has found clerical employees who are located geographically throughout the hospital within various departments composed of other service and maintenance employees are included in overall nonprofessional units. *Rhode Island Hospital*, *supra* at 359, citing *St. Francis Hospital*, 219 NLRB 963, 964 (1975).

It is uncontroverted in the instant case that all billing, insurance, Medicare/Medicaid, accounting, finance and payroll work is performed by the Employer's parent company, Mercy, which also handles similar work for its other subsidiary hospitals, St. Vincent and Riverside. Thus, none of this work is performed by any of the classifications at issue in this case. The department administrative coordinator, CME program coordinator and billing assistant 2 positions do not work in predominantly business areas, rather are located geographically throughout the hospital, within various departments composed of other service and maintenance employees and at times frequented by patients. They spend a majority of their working time devoted to activities that are imminently connected with and functionally related to the Employer's health care objective. See *Duke University*, 226 NLRB 470, 471 (1976) (finding medical transcriptionists, medical secretaries and office clerks who were not located in the business offices were not business office clericals). The billing assistant 2 in the instant case performs similar duties to the emergency department billing clerks and the billing

specialists that the Board included in a nonprofessional unit in *Rhode Island Hospital*, **supra**.

The positions of discharge analyst, correspondence specialist 1 and 2, clerk transcriptionist, and department transcriptionist are medical records employees who have “for the most part been deemed not to be business office clericals, but rather hospital employees.” *Rhode Island Hospital*, **supra at 362**. Like the medical records employees the Board included in the nonprofessional unit in *Rhode Island*, these employees work in the hospital’s basement near other service and maintenance employees, work largely with patients’ medical records, receive continuous requests for information from employees dealing directly with patients, and have little contact with the Employer’s actual business office clericals. **Id. at 363**. In finding that employees performing similar medical records work were not business office clericals in *Morristown-Hamblen Hospital Assn.*, **226 NLRB 76, 79 (1976)**, the Board reasoned that the employees at issue dealt with patients’ medical records rather than the type of records dealt with in the business office, worked closely with doctors and nurses, and had frequent contact with service and maintenance employees when dropping off and picking up patient records and charts.

Based on the foregoing, I include the classifications of discharge analyst, correspondence specialist 1 and 2, clerk transcriptionist, department transcriptionist, CME program coordinator, department administrative coordinator, and billing assistant 2 in the unit.

THE TECHNICAL EMPLOYEE ISSUE

Petitioner claims that the following classifications, if not excluded as being business office clerical unit positions, should be excluded from the unit because they

properly belong in a technical unit: billing assistant 2, CME program coordinator, department administrative coordinator, correspondence specialist 1 and 2, and discharge analyst. Petitioner further claims that the positions of certified pharmacy technician, medical transcriptionist, coding specialist 1, rehabilitation intake/insurance training specialist and rehabilitation aide 2 require specialized skills, training and experience and therefore should be excluded as technical positions.

Coding specialist 1

The coding specialist 1 position is responsible for reviewing the medical records for physician diagnosis and procedures and entering a code for that information into the Employer's computer system. The computer prompts the coder with questions about the particular diagnosis or procedure until it is able to assign a code to it for purposes of payment. For example, if a diagnosis is "lesion" then the coder would type "lesion" into the system. The computer system would prompt the coder with the question of where is this lesion located. The coder answers the question, for instance "on the skin" and the computer will provide a code. The coded information is handled by the billing department and the coder does not have any responsibilities for billing.

The job description indicates that an ART, Registered Records Administrator (RRA) or Certified Coding Specialist (CCS) or equivalent combination of experience or education is required. Deitz testified that the foregoing is not required, however, because she explained it is difficult to find someone with those qualifications. She testified that she gives applicants a coding test using the hospital's coding system, and if an applicant can pass the test then she will overlook such requirements. There are 15

coders. One is an ART but she achieved this status after being hired. Two are certified coding specialists (CCT); one held this when she was hired, the other received it afterwards. Dietz explained that CCT status is achieved by passing a national test that one can pass with proper experience. These individuals do not receive any additional compensation for these certifications and do not have any promotional opportunities over and above what the other coders have. The remaining coders possess only a high school degree. The coders are paid at grade level 17.

Medical transcriptionist

Dietz testified that departmental transcriptionist and medical transcriptionist are identical positions. Like department transcriptionists described above, medical transcriptionists transcribe physician orders recorded on a transcription machine, and applicants who pass Dietz's dictation test require no further experience to be hired. No particular education level nor certification or licensure is required. The pay grade for a medical transcriptionist is 14.

Correspondence Specialist 1 and 2

These positions are fully described in section involving the business office clerical issue above.

Certified pharmacy technician

The hospital has two pharmacies: an inpatient pharmacy located in the basement and an outpatient pharmacy located on the first floor. Leslie Anderson is the metro

technician coordinator for pharmacy services. She supervises the 19 certified pharmacy technicians. Three work out of the outpatient pharmacy and 16 work out of the inpatient pharmacy.

The inpatient certified pharmacy technicians enter physician orders into the computer, retrieve and label all medications for patients, prepare IV and chemotherapy solutions, and deliver these items to hospital floors. The pharmacy technician's work is performed under the direction of the pharmacist who checks all of the items before they leave the pharmacy. The inpatient pharmacy technicians have contact with the other hospital employees, especially health unit coordinators whom the parties agree should be included in the unit. The outpatient pharmacy technicians perform all of the foregoing duties except for preparing solutions and delivering items to hospital floors, and additionally they handle customer sales at a cash register. Anderson testified that two outpatient pharmacy technicians are trained to work in the inpatient pharmacy when there are vacations or illness, and vice versa, and there was one permanent transfer between the pharmacies about three years ago.

The Employer's job descriptions states an education requirement of a high school degree incorporating successful completion of Algebra, Biology and Chemistry. Anderson testified that of the 19 pharmacy technicians one has a two-year pharmacy technician degree, one is in the process of receiving that degree, one has a teaching degree unrelated to pharmacy, and the remaining have at least a high school degree and some have some college education. The technicians must also possess a pharmacy technician certification from the Pharmacy Technician Certification Board or other American Society of Health-System Pharmacy approved organization. Anderson

explained that certification is achieved by passing a national exam offered three times a year that she described as “primarily a self study exam.” Anderson testified that “occasionally” she hires a technician without a pharmacy technician certificate with the understanding that the individual must take it and pass the exam within six months of hire. She testified that all of the pharmacy technicians employed currently are certified. The pay grade for this position is 12, which is equivalent to the range of \$11.15 to \$15.11 per hour.

Rehabilitation training specialist

This position was fully described in the section regarding community of interest.

Rehabilitative aide 2

Fullenlove-Garza testified that ten employees currently hold this position. All work in the hospital on the 2nd floor where in-patient rehabilitation services are provided, and report to the rehabilitative services manager.³⁰ The job description states that employees in this position administer all physical therapy modalities under the general supervision of a therapist, assist patients in ambulation and exercise programs, assists therapists with more complex treatment programs, transfers and transport patients, performs a variety of general housekeeping duties such as changing linens and cleaning equipment, and perform related clerical duties as needed such and answering telephones and requisitioning department supplies. A high school degree and CPR certification is required for this job. It is paid at grade level 9.

³⁰ It is not clear from the record whether this is the position supervisor Becky Ford holds.

Technical employees are those “who do not meet the strict requirements of the term ‘professional employee’ as defined in the Act but whose work is of a technical nature involving the use of independent judgment and requiring the exercise of specialized training usually acquired in colleges or technical schools or through special courses.” **Rhode Island Hospital**, 313 NLRB 343, 353 (1993), quoting **Litton Industries of Maryland**, 125 NLRB 722, 724-725 (1959).

In view of the lack of specialized training, and because the record fails to establish the use of independent judgment, I find that the foregoing positions of billing assistant 2, CME program coordinator, department administrative coordinator, correspondence specialist 1 and 2, discharge analyst, certified pharmacy technician, medical transcriptionist, coding specialist 1, rehabilitation training specialist and rehabilitation aide 2 are not technical positions. See **Rhode Island Hospital**, 313 NLRB 343 (1993), p. 355 (rehabilitation medicine technicians) and 356 (pharmacy technicians; citing **Meriter Hospital**, 306 NLRB 598, 601 (1992). Consequently, they shall be included in the instant nonprofessional unit. The Board’s decision in **Duke University**, 226 NLRB 470, 472 (1976) is distinguishable. There, the Board found that pharmacy technicians who were required to possess a certificate attesting to their successful completion of 6 months training at a technical institute before beginning their duties for their employer were technical employees.

THE NURSE EXTERN ISSUE

The Employer contends that nurse externs must also be included in the unit. The Petitioner argues that because the individuals in this classification are enrolled in college

or a nursing program they are students and not employees under the Act. In the alternative, Petitioner argues that this classification requires employees to have completed two clinical courses and therefore properly belongs in a RN unit. I find that nurse externs do not share a community of interest with unit employees and therefore exclude them from the unit for the reasons that follow.

Nadine Heck is the clinical manager for the transitional care unit and the nurse educator for medical surgical services. She testified that there are 15 nurse externs, one works full-time, one works part-time, and the remainder work on a contingent basis. Heck testified that the nurse extern's duties are patient care, hygiene and nutrition, intake/output, and a minimal amount of "charting" for transferring and transporting patients. A nurse extern cannot prescribe or administer medications to a patient, touch, regulate or control IV's. Nurse externs report to the manager of the department in which they work.

Nurse externs must be currently enrolled in a professional school of nursing and have completed two clinical nursing courses. While the position description also states a minimum experience requirement of one year of clinical experience, Heck explained that requirement is satisfied by one year of nursing school. Nurse externs do not receive college credit for working at the hospital and earn \$11.54 per hour. Heck explained that there is also no salary progression for this position because it is considered a "short term" position. The nurse externs receive the same benefits as other employees. Contingent employees do not receive benefits.

Heck testified that nurse externs perform the same work as patient care technicians within the transitional care unit. The parties agree that patient care

technicians who work in the transitional care unit as well as other departments should be included in the petitioned-for unit. Heck did not recall the grade level patient care technicians are paid at, but stated that they earn \$9.00 - \$11.30 per hour. The nurse externs and the patient care technicians work the same hospital schedules. They have the same department managers depending on whichever unit they are assigned to. They wear the same uniforms. In response to the question of whether there is a seniority list for nurse externs, Heck testified “As far as I know yes there is . . . their date of hire would count as their date of hire.” She further testified that in the event of layoffs, nurse externs and patient care technicians would be laid off based on seniority without distinction between the two classifications.

Nurse externs and patient care technicians receive identical on the job orientation during which time they learn the hospital units, location of supplies they need for their duties. Both positions also attend a “skills lab,” which is a mandatory event held annually to check competency in areas including measuring and recording patient intake and output (such as nutrition consumption), ability to transfer and ambulate patients, and to obtain supplies. The patient care technician position description states that previous hospital experience is preferred but not required, Heck testified, however, that all the patient care technicians she is aware of possessed prior hospital experience. While the patient care technician position generally does not require any kind of certification, patient care technicians who work in the transitional care unit³¹ must possess certification as required by the State of Ohio. Nurse externs who work in transitional care unit longer

³¹ Transitional care unit is a sub-acute unit where rehabilitation strengthening and “those kinds of things” are performed.

than four months must also pass this test. Heck did not state how frequently this occurs. Both positions must be CPR trained.

When an opening comes up for a position for the transitional care unit, Heck lists the opening as PCT³²/ANE³³/STNA³⁴. Heck explained that when she posts a job for a patient care technician, “it is fair to say that the job opening would also be eligible for a nurse extern to apply for that position.” She explained that nurse externs are hired “usually with the understanding that they will move from the position once they graduate the program.” But if a nurse extern decided not to complete his or her nursing school training or for any reason dropped out of the nursing program, Heck testified that the Employer would offer that individual the option to switch into a patient care technician position.

The Board excluded collegiate nursing assistant from a non-professional unit under circumstances similar to those present here. In *Rhode Island Hospital*, *supra*, p. 364-365. Like the instant case, the employer in *Rhode Island* required the nursing assistants to be enrolled in a school of nursing program and have completed a clinical rotation in that program. The *Rhode Island* nursing assistants similarly did not receive any college credit for their employment, and, if they dropped out of school, their employment in that position would be terminated. The Board found that the nursing assistants were “primarily interested in attaining their educational objectives with significantly different terms and conditions of employment from those of other employees – particularly the fact that they are not eligible for raises.” *Id.* at 365.

³² PCT is the abbreviation for patient care technician

³³ ANE is the abbreviation for advanced nurse extern. Heck testified that there is no distinction between advance nurse extern and nurse extern.

³⁴ Heck did not explain what the abbreviation STNA stood for.

Importantly, the Board included in the unit the pharmacy students who were eligible for pay raises. *Id.* at 366.

Having found that nurse externs do not share a community of interest with unit employees, I do not find it necessary to consider the issue of whether nurse externs properly belong in an RN unit, particularly in light of the fact that no labor organization is seeking to represent an RN unit.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they

desire to be represented for collective bargaining purposes by **SERVICE EMPLOYEES INTERNATIONAL UNION, (SEIU), LOCAL 47, AFL-CIO.**³⁵

LIST OF VOTERS

In order to ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. **Excelsior Underwear Inc.**, 156 NLRB 1236 (1966); **N.L.R.B. v. Wyman-Gordon Co.**, 394 U.S. 759 (1969). Accordingly, it is directed that an eligibility list containing the *full* names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days from the date of this decision. **North Macon Health Care Facility**, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington, by November 9, 2001.

³⁵ Because the unit in which the election is directed is substantially longer than the unit sought, the showing of interest has again been administratively reviewed, I am satisfied that the showing of interest is sufficient in the unit I have found appropriate.

Dated at Cleveland, Ohio this 26th day of October, 2001.

/s/ Frederick J. Calatrello

Frederick J. Calatrello
Regional Director
National Labor Relations Board
Region 8

401-7575

420-4617